

**REMARKS:**

As an initial matter, Applicant has amended the title of the invention to correct a typographical error. Specifically, the “E” at the end of the word “therefore” as been deleted, and now correctly reads “therefor”. No other amendments have been made to the specification. No amendments to the claims are made herein. No new matter has been added.

In the previous Office Action of October 11, 2007, claims 1-12 were rejected as being obvious over Headrick in view of Brinker. By response dated January 11, 2008, Applicant argued against the rejections and amended claim 1 in clarification. Claims 7 and 8 were canceled.

Claim 1 was amended to provide that the “body structure” includes a surface having a mullion-supporting surface that supports a base of a mullion thereon. In addition, a horizontally extending portion extends outwardly past the mullion-supporting surface, and at least one lateral locating structure extends upwardly from the horizontally extending portion. The lateral locating structure is substantially perpendicular to the mullion-supporting surface, and abuts a corresponding lateral face of the mullion in order to limit lateral movement of the mullion.

Neither Headrick nor Brinker disclose or suggest a spacer having the structure as defined in claim 1 of the present application. Brinker discloses a conventional metal door and sidelight frame with no spacer structure. Headrick is directed to a side panel and door threshold rather than a spacer for supporting a mullion. As shown in Figure 1 of the Headrick patent, the gaps between the threshold cap 13 and the pair of panel caps 14, 16 are precisely where the mullion would be provided. Thus, a conventional mullion or

tenon formed to fit onto sill 22 via relatively complicated machining would be required.

The present invention seeks to overcome the problems associated with designs such as disclosed by Headrick.

Claim 1 specifically provides for a lateral locating structure that extends upwardly from a horizontally extending portion relative to the mullion supporting surface. The lateral locating structure is substantially perpendicular to the mullion-supporting surface, so that it abuts a corresponding lateral face of the mullion and limits lateral movement thereof. Such a feature would not be desirably or even functional on the threshold caps disclosed by Headrick, given a planar upper surface is required under the associated door (associated with threshold cap 13), and a planar upper surface is also desirable for side panels (associated with panel caps 14, 16). Thus, Headrick fails to disclose or suggest a lateral locating structure, as claimed by Applicant.

Claim 1 provides for a spacing member comprising a body member having a mullion-supporting surface to support a base of the mullion, and a lateral locating structure abutting a corresponding lateral face of the mullion. The structural features of the claimed spacer are thereby defined with reference to a mullion having a base and a lateral face. The structural features of the claimed spacer are also defined in terms of their relationship to each other, given the claimed horizontally extending portion extends outwardly past and relative to the claimed mullion-supporting surface, and the lateral locating structure extends upwardly from and relative to the horizontally extending portion and substantially perpendicular to the mullion-supporting surface.

The Examiner does not specifically address Applicant's previous remarks in the Final Office Action, but presumably agreed with Applicant's arguments given new

grounds of rejection were deemed necessary for the rejection of the pending claims. Specifically, the obviousness rejection now relies upon a third reference, U.S. Patent No. 5,638,641 to Joffe et al, in addition to Headrick and Brinker.

However, Joffe likewise fails to disclose or suggest the invention of claim 1, either alone or in combination with Headrick and/or Brinker, for the same reasons as those relating to Headrick. As noted above, Headrick discloses a threshold cap 13 and a pair of spaced panel caps 14, 16, with gaps between the threshold cap 13 and each of the panel caps 14, 16. *As shown in Figure 1 of the Headrick patent, these gaps are precisely where the mullions would be provided.* Thus, a conventional mullion or tenon formed to fit onto sill 22 via relatively complicated machining would be required.

Similarly, Joffe discloses a threshold assembly including a threshold cap 40 and a panel cap 70 spaced from the threshold cap 40. *As with Headrick, the space between the threshold cap 40 and panel cap 70 of the Joffe assembly is precisely where the mullion would be located.* See Joffe patent, Figure 2. The Examiner incorrectly identifies element 72 as the ‘mullion supporting surface’ when looking at a cross sectional view of Figure 5 or 6. In fact, Joffe discloses “an elongated cap member 70” which includes a ‘top wall 72’. The elongated cap member 70 fits beneath and supports the bottom surface of the side panel 16, not the mullion. See Joffe patent, col. 3, lines 38-40 & 53-58. This description is clearly set forth in the Joffe patent, and shown in the Figures. For example, Figure 2 shows the cap member 70 to the right of the mullion (not supporting the mullion). The sectional view of the assembly shown in Figure 5 of Joffe likewise shows the cap element 70 underneath and supporting the side panel 16, not the mullion.

Moreover, the cap member 70 disclosed by Joffe would not be modified to include ‘a lateral locating structure’ that is substantially perpendicular to the mullion-supporting surface and extends upwardly therefrom given such a feature would be neither desirable or functional on the cap disclosed by Joffe. As with Headrick, the Joffe assembly requires a planar upper surface under the associated door (associated with rail member 40) and a planar upper surface under the associated side panel 16 (associated with cap member 70). Thus, the present invention as claimed is distinguishable from Joffe for nearly identical reasons as those presented with respect to the Headrick patent.

### **Conclusion**

None of the cited references disclose or suggest a spacing member as claimed by Applicant, which includes a body structure with a pair of opposing surfaces, one of the surfaces having a mullion-supporting surface to support a base of a mullion, a horizontally extending portion extending outwardly past the mullion-supporting surface, and a lateral locating structure extending upwardly from the horizontally extending portion of the mullion-supporting surface that is substantially perpendicular thereto to abut a corresponding lateral face of the mullion and limit lateral movement thereof.

Rather, Headrick discloses a sill assembly wherein a conventional mullion is formed to fit directly onto the sill. As such, relatively complicated machining is required, the very problem the present invention seeks to overcome. Joffe also discloses a sill assembly wherein a conventional mullion is disclosed directly onto the sill (not onto the supporting surface of a spacing member for the side panel as suggested in the Office Action). Again, relatively complicated machining would be required for seating the

mullion on the sill. Brinker discloses a conventional metal door and sidelight frame with no spacer structure.

Given none of the cited references include a spacer assembly which fits beneath and supports a mullion, they obviously do not disclose or suggest a spacer having a body structure with a mullion-supporting surface, a horizontally extending portion, a lateral locating structure extending upwardly from the horizontally extending portion, or a contoured sill-engaging surface, as specifically required by claim 1 of the present application.

In light of the above, Applicant respectfully requests reconsideration of the application, and withdrawal of the rejections. Allowance of claims 1-6 and 9-12 is solicited.

However, should the Examiner maintain the rejection, Applicant respectfully requests that the Examiner grant an interview. Applicant previously submitted an Applicant Initiated Interview Request Form, but the Examiner has not yet granted Applicant an interview. Therefore, Applicant hereby renews the previous request for an interview, and specifically requests a personal interview. It is believed that an interview may expedite prosecution should further clarification be required.

It is believed that no fees are due with this submission. Should that determination be incorrect, then please debit Account No. 50-0548 and notify the undersigned.

Respectfully submitted,



William C. Schrot  
Reg. No. 48,447  
Attorney for Applicant

**Berenato, White & Stavish, LLC**  
6550 Rock Spring Drive, Ste. 240  
Bethesda, Maryland 20817  
Telephone: (301) 896-0600